

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS Nos.613 of 2000 to 618 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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JADAV RATILAL KALIDAS

Versus

ADMINISTRATIVE OFFICER,  
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Appearance:

MR KB PUJARA for Petitioner  
M/S PATEL ADVOCATES for Respondent No. 1  
MR MG NAGARKAR for Respondent No. 2  
RULE SERVED BY DS for Respondent No. 3, 4  
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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 05/05/2000

COMMON ORAL JUDGEMENT

The present petition is filed by the retired  
primary teachers of the Ahmedabad Municipal School Board.

The grievance of the petitioners is that the State Govt. has implemented the scheme of the higher pay scale to the primary teachers at the end of 9, 20 and 31 years of service with effect from 1.6.1987 by the Government Resolution dated 16.8.1994. It is also the case of the petitioners that the State Govt. had also implemented the revised pay sales with effect from 1.1.1996 pursuant to the 5th Central Pay Commission and Gujarat Civil Service (Revision of Pay) Rules, 1998. It is the case of the petitioners that all the Govt. Resolutions/ circulars and orders issued by the State Govt. for giving benefit to the Govt. employees are made applicable to the primary teachers of the Municipal School Board with effect from the same date and on the same condition as applicable to the Government employees by Govt. Resolution dated 11.12.1986. The petitioners, therefore, submitted that the entitlement of the petitioners for the benefits of the higher pay scale and revised pay scale is not in dispute. The petitioner is constrained to approach this Court by way of this petition because the respondents are highly indifferent in granting benefits to the petitioners, who have already retired. It is also the case of the petitioners that the respondents have granted such benefits to all other primary teachers who continued to be in service of the respondents. The prayer of the petitioners is that the respondents be directed to forthwith revise and pay the petitioners the pensionary benefits together with interest at the rate of 24 % per annum.

2. This Court issued rule on 7.2.2000 and made notice as to interim relief and hearing of the rule returnable on 28.2.2000. In response to the process of this Court, respondent no.1, Administrative Officer, Ahmedabad Municipal School Board has filed an affidavit in reply. It is stated in the said affidavit in reply as under,

".. .. I say that pursuant to the order passed by the Honourable High Court (S.K. Keshote, J.) a high power committee was constituted and the same has decided to give the benefit of higher pay scale to the primary teachers. However, I say that estimated liability for the payment of arrears is accrued to the tune of Rs.67.65 crores and therefore, it was also resolved that stage wise the said arrears be paid to the employees within time span of maximum 3 years. .. .."

3. The deponent has also produced a copy of the

communication addressed to the Director of Primary Education by the Joint Secretary, Education Department at Annexure 'I'. The same is dated 21.9.1999. It is stated in the said communication in the last para as under,

"Ahmedabad Municipal Corporation shall give the benefit of higher pay scale as per the Finance Department's Resolution dated 16.8.1994 with effect from 1.10.1999 to the Primary teachers under their control. The high power committee resolves that the arrears from 1.6.1987 a huge amount of about Rs.67.65 crores is payable and the financial condition of the Ahmedabad Municipal Corporation is not good and therefore, the arrears is to be paid in stages in maximum three year period."

In reply to this affidavit a rejoinder came to be filed on behalf of the petitioners, wherein it is stated in para 4 that,

"I say that so far as the retired primary teachers of the Municipal School Board are concerned their pension and other benefits are required to be paid from the pension fund as clarified by the Director of Primary Education in his letter dated 24.8.1999 addressed to the respondent no.1 as per Annexure 'D' hereto. It has been further stated in the said letter that huge amounts have been accumulated in the said pension fund and they are invested in nationalized banks or Govt. securities. As the said amount is a part and parcel of the pension fund the teachers are required to be paid their pension and other benefits by withdrawing the said amount from the banks as and when financial need arises. Instead of doing that the respondent no.1 had asked for separate grant which is not proper as per rules. The Director of Primary Education has thereupon instructed the respondent no.1 to encash the investments or to get the fixed deposits released and to pay all the claims including pension of the retired teachers. The Director had asked the respondents to pay the dues of the retired teacher from the pension fund within one week from the date of the letter dated 24.8.1999, failing which the responsibility would be of respondent no.1."

4. An affidavit in reply is also filed on behalf of the Assistant Municipal Commissioner, Ahmedabad Municipal

Corporation. After the aforesaid rejoinder filed by the petitioner. Respondent no.1 has filed a further affidavit in reply and it is stated in the said affidavit in reply that the affidavit in rejoinder filed on behalf of the petitioner is misconceived. The averments made in the said rejoinder are controverted by the said further affidavit in reply. The affidavit proceeds to state that,

".. .. I state that at present there is nil balance with the Municipal School Board and as per the policy of the Govt., 80% grant has to be given by the Govt. and 20% by Ahmedabad Municipal Corporation to meet with the need of difference in salary, computed pension and ancillary benefits."

5. Said affidavit then proceeds to mention that how much time it is likely to take, to pay the petitioners the benefits as prayed for. The contents of para 3 of the aid further affidavit are as under:

"I state that at present in my office Jr. Accountant Pension has been given the work of computing the pension and all other ancillary benefits to be given to in all 1450 pensioners. I state that four clerks and Jr. Accountant Pension are busy with the calculation of the amount which has to be paid, over and above, the daily routine work. It state that I have instructions to the Jr. Accountant Pension and all other clerks to look after the work promptly and to give priority to that work. I state that so far as work of computation is concerned, it requires great lengthy, time consuming and very complex process. Thus, for computing pensionary and ancillary benefits of one person it requires almost a day. I crave liberty to produce computation of certain pensioners before this Court at the time of hearing of this petition. It is submitted that almost six months will be required to totally compute all the pensionary benefits of all 1450 pensioners. I state that after the computation, the computed bill will be submitted to the local fund which will verify the computed figures and after it will okay the bill it will be sent back to the Municipal School Board. The Municipal School Board, thereafter will have to submit the bill before the Government as well as Ahmedabad Municipal Corporation so as to take grant as stated

aforesaid. Thus, it is submitted that with utmost sympathy to the petitioners our office is constantly working taking the work of the petitioners on priority basis. But as stated aforesaid it is time consuming process and after the computation will be completed as per the availability of grant the petitioners will be paid their dues accordingly. At present there is no refusal of any demand on the part of the respondents and therefore, this petition is premature and is required to be rejected in limine."

6. The learned advocate Mr.Pujara submitted that the petitioners are the retired employees and their only source of income is the pension amount. Mr.Pujara submitted that it would have been proper on the part of the authorities to take up the case of the retired employees first as the serving employees do have the source of income by way of their salary while in case of the petitioners, the only source of income is the pension amount. There is a force in the submission of Mr.Pujara. Therefore, it is felt just and proper that the respondent authorities shall be put to terms and a time table be prescribed to expedite payment of revised pension and arrears of pension admissible to the petitioners. It may be noted that in principle, it is already decided by the high power committee that the petitioners are entitled for the benefits which are payed for. Not only that the Director of Primary Education has also instructed respondent no.1 by letter dated 24.8.1999. In view of these two things, i.e. Resolution of the high power committee constituted pursuant to the direction of this Court in Special Civil Application No.3258 of 1999 upholding the claim of the petitioners. The only point left is that the authorities must expedite the whole exercise. It is in light of these submissions, the following directions are given :

7. In view of the rival contentions and in view of the contents of the further affidavit filed on behalf of respondent no.1, it is deemed fit that to serve the ends of justice the authorities shall be directed to follow a time bound schedule for making payment of the benefits, prayed for by the petitioners. As there are 1450 pensioners and it takes almost a day for completing the computation of pension and ancillary benefits of one person, it is directed that,

(i) The respondent no.1 shall complete the work of

computation latest by 31.10.2000.

(ii) It is further directed that after said computation is over, the same shall be submitted to the Local Funds for its verification and the Local Fund shall complete its verification of the computed figures by 31.1.2001.

(iii) Thereafter, respondent no.1, Municipal School Board shall submit the bills before the Govt. as well as the Ahmedabad Municipal Corporation for getting necessary grant.

(iv) The said bills for getting grant shall be processed by the Govt. at the earliest but not later than 31.3.2001.

(v) Thereafter, respondent no.1 shall exercise of making payment to the petitioners within a further period of two months.

8. In case of any difficulty at any stage the respondents may approach this Court for necessary directions. With the aforesaid directions the present petition is disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

5.5.2000 (Ravi R. Tripathi, J.)

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